

COUNCIL MONITOR

International Service for Human Rights



Human Rights Monitor Series

COUNCIL UPDATE – ITEM 3 GENERAL DEBATE HUMAN RIGHTS COUNCIL, 10TH SESSION 16 MARCH 2009

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Overview

The Council's general debate on Item 3 (thematic issues) addressed a very broad range of issues. Of particular note was a joint statement read by New Zealand on behalf of 82 delegations on the issue of maternal mortality, whereby it signalled the practical steps that the Council could take to raise awareness of the issue and recognise that failure to prevent maternal mortality constituted a violation of human rights. Other commonly raised issues included comments on OHCHR's separate reports on climate change and trafficking, women's rights, the impact of the global economic crisis, and follow-up comments by States on the study of the Special Rapporteur on torture on the death penalty as a form of cruel, inhuman and degrading treatment.

The debate was also notable for the high number of UN and other intergovernmental bodies that took part, including the World Bank, World Food Programme, UNFPA, and the UNFCCC.

General debate on Item 3

The Czech Republic (on behalf of the EU), Brazil, Iceland and others presaged the general debate on Item 3 by emphasising the **universality, indivisibility and interdependence of all human rights**. The Czech Republic illustrated this link by stating that violations of freedom of religion or belief may effect enjoyment of economic, social and cultural rights also, and that alleviation from poverty needs an independent and efficient judiciary. Brazil noted also that civil and political rights are essential to the fulfilment of the person, and that dialogue and cooperation must be the way to protect all rights everywhere.

Both the Czech Republic (on behalf of the EU) and Chile (on behalf of GRULAC) drew particular attention to **discrimination against women and women's rights**. Chile outlined developments in international law and social progress in various areas. France and Slovenia supported the creation of a new mandate on laws that discriminate against women.¹ The Czech Republic and Iceland stated that discrimination should never be allowed to occur on any grounds, included on the basis of **sexual orientation**. France informed the Council that it would hold a World Congress on sexual orientation in Paris on 15 May 2009.

¹ The Institute for Women's Study and Research also called for the appointment of a special rapporteur on gender and reproductive health.

The most notable intervention under the general debate on Item 3 was that of New Zealand on **maternal mortality**, made on behalf of 82 delegations. Following from a panel event held on the subject at the June 2008 session of the Council, New Zealand noted that 500,000 women die each year as a result of pregnancy or childbirth, most of which are preventable. It drew attention to international commitments to illustrate that such failures in prevention constituted violations of human rights. It noted that the decrease in global figures was far below those needed to reach the Millennium Development Goals, and stressed the need for both increased partnerships as well as individual State's respect for their human rights obligations. Recognising the important role of the World Health Organisation and others, it turned to the specific contributions that the Human Rights Council could make, including: identifying human rights dimensions, considering information on discrimination in the provision or and access to health care; addressing the issue through the UPR and treaty body dialogues; and requesting States to include women in decision making about maternal health. It sought for the Council to take concrete action by June 2009. Burkina Faso also expressed its expectation that Council members would commit to these efforts.

The impact of the **global economic crisis** on the protection of human rights was echoed by many participants.² Chile reminded the Council that following its 10th special session, it must 'illuminate the path towards economic recovery'. Brazil endorsed this by noting the negative impact on peace and security and claimed that developing States will be affected most. China encouraged special procedures to incorporate these factors in their work while strictly adhering to their mandates, while Turkey called upon the Council to consider its particular impact on women. The UNFPA elaborated that women are primary caregivers, and female headed families are often poorer. This 'intergenerational continuum of poor health' needed to be recognised by the Council in its relevant work.

A number of States and others³ responded to the recent report of OHCHR on **climate change and human rights**.⁴ The Maldives and Bhutan in particular spoke from experience of the direct impact of climate change, with the former claiming that while the outcomes of the report were 'conservative', it was nonetheless important that the human rights impact was noted, as failure of the United Nations Climate Change Conference in December 2009 to incorporate human rights would affect millions worldwide. It stated that it would follow up with a resolution on climate change at the 11th session in order to send a 'strong message' to the Conference. Canada, on the other hand, raised concern with assertions of links between human rights and climate change in the absence of consensus among States. It felt the need to assert that guidelines are not binding on States, and that what was first needed was discussion and consensus among States. The World Bank also briefed the Council on its efforts in this regard, conceding that it does not employ a rights-based approach but informing that it is currently undertaking a study on climate change, human rights and legislative frameworks.

The discussion around **torture and the death penalty** was particularly fractious. A number of States expressed their commitment to the absolute abolition of the death penalty⁵ and supported the study of the Special Rapporteur on Torture, Mr Manfred Nowak, which looked at the death penalty as a form of torture or cruel, inhuman or degrading treatment. Iceland, notable, expressed its objection to 'torture and the death penalty' in the same sentence. Botswana and Singapore, however, took extreme offence to this initiative. The former referred to Mr Nowak's report as an 'undue extension of the mandate to meet the parochial interests of a number of States'. It also alleged that it constituted an implicit undermining of treaty body provisions. Singapore was even more aggressive, accusing Mr Nowak of persisting in pushing his perspective and 'taking others for idiots'. They attacked his premise for the study as being based on a resolution that 'was nowhere close to consensus'⁶, claiming it was 'devious pursuit...[that]...would cast doubt on the very system of special procedures'.

² Chile (on behalf of GRULAC), Brazil, China, Turkey, UNFPA.

³ Switzerland, Canada, China, Maldives, Bhutan, World Bank, Costa Rica, International Working Group for Indigenous Affairs, International Institute for Non-Aligned Studies,

⁴ A/HRC/10/61, available at <http://www2.ohchr.org/english/bodies/hrcouncil/10session/reports.htm>

⁵ Czech Republic (on behalf of the EU), Italy, Iceland

⁶ General Assembly *Resolution 62/149*.

China dedicated its intervention primarily to also **attacking the system of special procedures**. It declared that it observed a lot of overlap in the work of special procedures, particularly with the advent of the new Advisory Committee of the Human Rights Council, and it hoped that the Council would deal with the expansion of mandates in a ‘cautious manner’. The African Union also considered that progress in the system of special procedures has been ‘limited’. The Cairo Institute for Human Rights Studies and the Helsinki Foundation for Human Rights, on the other hand, expressed serious concern with the lack of cooperation by States with the special procedures.

On the issue of the **rights of indigenous peoples**, Switzerland made the very practical of bringing all relevant reports together for consideration at the same time during Council sessions. Canada appended, without any clear motivation, that it did not consider the *Declaration on the Rights of Indigenous Peoples* and *ILO Convention No. 169* to constitute customary international law, presumably as it was one of the few States that delayed and opposed their adoption.

Other issues raised in the general debate included: the importance of protecting cultural rights through the creation of a new mandate in the face of ‘pseudo-cultural homogenisation by...the neo-imperialistic entertainment industries’;⁷ the right to self-determination;⁸ counter-terrorism and human rights;⁹ the protection of human rights defenders,¹⁰ including journalists in Afghanistan, Sri Lanka and Iran;¹¹ the need for speedy ratification of the *Convention on Enforced Disappearances*;¹² the report of OHCHR on trafficking;¹³ support for the establishment of a new mechanism on human rights learning;¹⁴ support for the conclusions in the report of the Independent Expert on Minorities and for her increased cooperation with UNDP;¹⁵ the call for the appointment of a rapporteur on the right to vote, with a mandate that would extend to assess election-related norms;¹⁶ the conclusions in a case before the Working Group on arbitrary detention that the rounding up of young men in public to enrol in the armed forces constituted arbitrary detention;¹⁷

Rights or reply under Item 3

Eleven States exercised their rights to reply to various comments that had been made under Item 3.¹⁸ This included clarification from the Republic of Korea that reforms of its national human rights institution were not intended to undermine its independence, but were part of a wider public sector reform. Georgia accused Russia of violating the UDHR by expelling people from Ossetia and Abkhazia, to which the Russian Federation replied that Georgia had initiated aggression and that it had no basis to claim that the Russian Federation was limiting the right to return. Macedonia reiterated a point made during the general debate that Greece was diverting attention away from minority issues, to which Greece replied that it did not recognise any ‘so-called Macedonian minority’. Sri Lanka also accused Amnesty International of verbal pyrotechnics in relation to the situation of internally displaced persons in Sri Lanka.

⁷ Cuba

⁸ Pakistan, Algeria, the International Islamic Federation of Student Organisations, International Club for Peace Research, Commission to Study the Organisation of Peace, Maldives (in the context of climate change).

⁹ Chile, Cairo Institute of Human Rights Studies

¹⁰ Czech Republic (on behalf of the EU), Macedonia, Civicus,

¹¹ Reporters Without Borders.

¹² France

¹³ A/HRC/10/64. Philippines, US, Costa Rica.

¹⁴ Slovenia

¹⁵ Macedonia and the US. Macedonia used the Independent Experts conclusions to call on Greece to amend their minority policies in view of these recommendations.

¹⁶ Human Rights Advocates

¹⁷ Quakers International, International Federation of Reconciliation,

¹⁸ Republic of Korea, Georgia, Sri Lanka, Greece, Russian Federation, Algeria, Iraq, Uzbekistan, Kazakhstan, Macedonia, Morocco,

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The Council Monitor forms part of the Human Rights Monitor Series produced by ISHR. It provides you with information about all the key developments at the Human Rights Council, including Daily Updates during the session of the Council, an Overview of the session, briefings and updates on the major issues of concern in the transition from the Commission on Human Rights to the Council and other key reports. It is currently an online publication that can be found at www.ishr.ch.

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